

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DURRELL ANTHONY PUCKETT,

Plaintiff,

v.

BARAONA, *et al.*,

Defendants.

Case No. 1:21-cv-01448-ADA-BAM (PC)

ORDER GRANTING DEFENDANTS'  
MOTION TO MODIFY DISCOVERY AND  
SCHEDULING ORDER

(ECF No. 66)

ORDER DIRECTING CLERK OF COURT TO  
SERVE PLAINTIFF AT CURRENT  
ADDRESS OF RECORD AND SALINAS  
VALLEY STATE PRISON

**Dispositive Motion Deadline (Exhaustion):  
May 25, 2023**

Plaintiff Durrell Anthony Puckett ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint against: (1) Defendants A. Baraona, R. Burnitzki,<sup>1</sup> R. Leos, H. Hernandez, E. Diaz, and Doe 1 for excessive force in violation of the Eighth Amendment; and (3) Defendants A. Ruiz, R. Martinez, E. Ruiz, G. Meier,<sup>2</sup> R. Gutierrez, J. Cruz, K. Allison (Cronister), and Jane Doe Nurse for failure to protect in violation of the Eighth Amendment.

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<sup>1</sup> Erroneously sued as "Burneszki."

<sup>2</sup> Erroneously sued as "Meiers."

1 Pursuant to the Court's October 24, 2022 discovery and scheduling order, the deadline for  
2 filing motions for summary judgment for failure to exhaust administrative remedies is February  
3 24, 2023. (ECF No. 56.)

4 Currently before the Court is Defendants' motion to modify the discovery and scheduling  
5 order, filed February 23, 2023. (ECF No. 66.) Defense counsel declares that good cause exists to  
6 extend the deadline to file an exhaustion motion by ninety days, to May 25, 2023, because  
7 Plaintiff's deposition must be rescheduled. Plaintiff was scheduled to be deposed on February 21,  
8 2023, however on the morning of the deposition defense counsel was contacted by the Litigation  
9 Coordinator at California State Prison, Sacramento, indicating that Plaintiff's level of care was  
10 changing and he was being transferred to another institution. Counsel is not yet aware of where  
11 Plaintiff will be housed, and is therefore unable to reschedule the deposition. Defense counsel  
12 must depose Plaintiff before determining whether Plaintiff adequately exhausted administrative  
13 remedies as to all named Defendants in this case. Because the deposition could not go forward as  
14 planned, an extension of ninety days is necessary for defense counsel to depose Plaintiff, evaluate  
15 the testimony, and draft the appropriate motion. (*Id.*)

16 Plaintiff has not yet had an opportunity to file a response, but the Court finds a response is  
17 unnecessary. The motion is deemed submitted. Local Rule 230(l).

18 Having considered the request, the Court finds good cause to grant the requested  
19 extension of the exhaustion summary judgment motion deadline. Fed. R. Civ. P. 16(b)(4). The  
20 Court finds that Plaintiff will not be prejudiced by the extension granted here. No other deadlines  
21 are extended by this order.

22 Finally, the Court notes that CDCR's Inmate Locator website<sup>3</sup> indicates that Plaintiff is  
23 currently housed at Salinas Valley State Prison in Soledad, California. Based on this information,  
24 the Court finds it appropriate to direct the Clerk of the Court to serve this order on Plaintiff's  
25 address of record as well as Salinas Valley State Prison.

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26  
27 <sup>3</sup> The Court may take judicial notice of public information stored on the CDCR Inmate Locator website. *See In re*  
28 *Yahoo Mail Litig.*, 7 F. Supp. 3d 1016, 1024 (N.D. Cal. 2014) (court may take judicial notice of information on  
"publicly accessible websites" not subject to reasonable dispute); *Louis v. McCormick & Schmick Restaurant Corp.*,  
460 F. Supp. 2d. 1153, 1155 n.4 (C.D. Cal. 2006) (court may take judicial notice of state agency records).

**Plaintiff is advised to update his current mailing address with the Court as soon as he is able to do so.** Local Rule 182.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Defendants' motion to modify the discovery and scheduling order to extend the deadline to file an exhaustion motion, (ECF No. 66), is GRANTED;
2. The deadline for filing motions for summary judgment for failure to exhaust administrative remedies is extended from February 24, 2023 to **May 25, 2023**; and
3. The Clerk of the Court is directed to serve this order on Plaintiff at his current address of record and at Salinas Valley State Prison.

IT IS SO ORDERED.

Dated: **February 24, 2023**

/s/ *Barbara A. McAuliffe*  
UNITED STATES MAGISTRATE JUDGE